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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,889	11/13/2003	Johannes Kanters	10191/3479	7764
26646 7590 03/17/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
OLSEN, KAJ K				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
03/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/706,889

Applicant(s)

KANTERS ET AL.

Examiner

KAJ K. OLSEN

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 and 8-19 is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

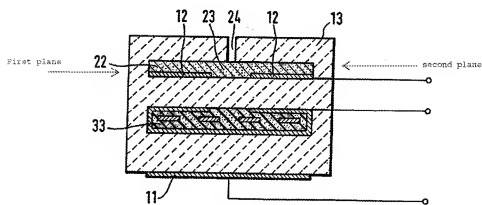
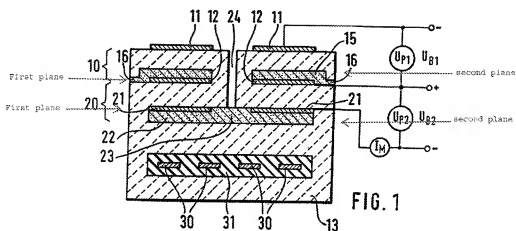
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Friese et al (USP 5,686,654) (hereafter “Friese ‘654”). Friese ‘654 is being cited and relied on for the first time with this office action. Its use here was necessitated by the applicant’s amendment to the claims.
3. Friese ‘654 discloses a gas sensor for detection a physical property of a measuring gas (oxygen content) comprising first and second solid electrolyte layers (e.g. the upper and middle horizontal portions of electrolyte 13 in fig. 2 or any two of the upper three horizontal portions of electrolyte 13 in fig. 1) and a diffusion barrier (element 23 or the porous material in chamber 15 in fig. 1 or element 23 in fig. 2). With respect to this barrier of Friese ‘654 possessing the claimed first and second areas, see the marked up drawing below:

U.S. Patent

Nov. 11, 1997

5,686,654



3/6/09, EAST Version: 2.2.1.0

4. As can be seen, each of these diffusion barriers of Friese '654 possesses different planes that read on the defined first and second planes. Moreover, each of these first planes is smaller

in area than each of the second planes. In particular, the second planes have an area equal to the area of the measurement chambers 15 or 22, whereas the first planes would have an area equal to the area of the measurements chambers 15 or 22 minus the areas of the electrodes 12 or 21.

5. With respect to the first area being in a central region between the layers, the first plane of 23 in fig. 1 and 2 is in a central plane and is between the first and second electrolyte layers.

Allowable Subject Matter

6. Claims 1-3 and 8-19 are allowed.

7. Claims 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: With respect to claims 1-3 and 8-19, applicant's amendment to claim 1 reads free of and is non-obvious over Friese '604 previously utilized against claim 1. With respect to claim 7, the prior art does not disclose nor render obvious all the limitations of claim 4 where the smallest cross-sectional area of the diffusion barrier lies in a central plane extending parallel to, and between the first and second solid electrolyte layers.

Response to Arguments

9. Applicant's arguments for amended claim 1 were persuasive and the outstanding rejection of that claim and its dependent claims has been withdrawn. Applicant's arguments

concerning amended claim 4 are moot in view of the new grounds of rejection necessitated by applicant's amendment.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAJ K. OLSEN whose telephone number is (571)272-1344. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1795

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kaj K Olsen/
Primary Examiner, Art Unit 1795
March 19, 2008